



U.S. AGENCY FOR  
INTERNATIONAL  
DEVELOPMENT

**NOV -2, 2001**

MEMORANDUM FOR ALL CONTRACTING OFFICERS AND NEGOTIATORS

FROM: M/OP, Mark S. Ward, Director *(signed by Kathleen O'Hara for)*

SUBJECT: USAID Implementation of Section 508 of the Rehabilitation Act of 1973 and Federal Acquisition Circular (FAC) 97-27 "Electronic and Information Technology Accessibility"

**CONTRACT INFORMATION BULLETIN 01-21**

The purpose of this CIB is to inform USAID contracting officers and negotiators of the requirements of FAC 97-27, which went into effect on June 25, 2001. This CIB also provides Agency-specific guidance for implementing these new FAR requirements, since additional guidance beyond what was provided in the FAR is necessary to implement the requirements of Section 508.

On April 25, 2001, the FAR Councils published FAC 97-27 in the Federal Register as a final rule to implement Section 508(a)(3) of the Rehabilitation Act of 1973. A copy of the Federal Register version of the FAC is available through the Government Printing Office's web site by using the search term "20893" at [http://www.access.gpo.gov/su\\_docs/aces/aces140.html](http://www.access.gpo.gov/su_docs/aces/aces140.html)) (66 FR 20893); the "Supplementary Information" section of the final rule provides useful background information on this regulation.

We are issuing a General Policy Notice concurrently with the CIB to bring it to the attention of the entire Agency.

**This CIB is effective on issuance. Note the "applicability date" from FAC 97-27:**

**Dates:** *Effective Date:* June 25, 2001

*Applicability Date:* For other than indefinite-quantity contracts, this amendment (FAC) applies to contracts awarded on or after the effective date. For indefinite-quantity contracts (IQCs), it is applicable to delivery orders or task orders issued on or after the effective date.

Therefore, even if you have issued an RFP before the effective date of this CIB and the FAC, you must ensure that any resulting contract complies with both. Any task or delivery order

issued after the effective date of FAC 97-27 must also comply with FAC 97-27 and this CIB, even if the basic IQC does not address Section 508 requirements (contracting officers administering basic IQCs--see Attachment 8).

Section 508 does not apply to assistance awards (grants and cooperative agreements), nor does it apply to equipment or services purchased under assistance awards.

This CIB contains guidance and documents for use primarily by requirements offices in

- Identifying whether a particular requirement is subject to Section 508,
- Identifying compliant Section 508 products and services,
- Preparing undue burden and non-availability determinations, and
- Conducting technical evaluations vis-à-vis the accessibility standards.

The CIB also provides more detailed guidance to contracting officers on IQC requirements and provides a language for use in solicitations and contracts subject to Section 508.

### **GENERAL BACKGROUND/REQUIREMENTS OF SECTION 508**

Section 508 of the Rehabilitation Act of 1973, as amended (“the Act”), requires that when Federal agencies develop, procure, maintain, or use electronic and information technology (EIT), they must ensure that the EIT allows Federal employees with disabilities to have access to and use of information and data that is comparable to the access to and use of information and data by Federal employees who are not individuals with disabilities, unless an undue burden would be imposed on the agency. Section 508 also requires that individuals with disabilities, who are members of the public seeking information or services from a Federal agency, have access to and use of information and data that is comparable to that provided to the public who are not individuals with disabilities, unless an undue burden would be imposed on the agency. FAR 39.201 Scope of subpart summarizes these requirements. Therefore, Section 508 applies only when EIT is used by agency employees or by members of the public seeking information or services from the Agency. Purchases including supplies that may be technically EIT (under the FAR definition) but fall outside the Scope of subpart in FAR 39.201 are not "qualifying EIT" and do not have to comply with Section 508 applicability standards (discussed below).

For example, computer hardware bought under a direct USAID contract for delivery to and with title in the Government of X would not be qualifying EIT. But hardware bought under a USAID contract for operation of a USAID-owned web site would qualify, because such a purchase would be directly utilized by agency employees or by the public to elicit information from the Agency.

An agency that fails to comply with Section 508 standards in acquiring EIT may be subject to an administrative complaint brought by the affected individual. Such an individual may also file a civil action against an agency.

Pursuant to the Act, the Architectural and Transportation Barriers Compliance Board (Access Board) published standards on December 21, 2000. The Access Board is an independent Federal agency established by Section 502 of the Rehabilitation Act (29 U.S.C. 792) whose primary mission is to promote accessibility for individuals with disabilities. The standards set forth a definition of EIT and the technical and functional performance criteria necessary for accessibility for EIT. The standards are codified at 36 CFR part 1194.

### **What is “Electronic and Information Technology (EIT)”?**

EIT goes beyond the FAR definition of "information technology" to include equipment used in the creation, conversion, or duplication of data or information. It is defined as any equipment or interconnected system or subsystem of equipment, that is used in the creation, conversion, or duplication of data or information, or used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information.

It includes, but is not limited to

- Telecommunication products, such as telephones
- Information kiosks and transaction machines
- World Wide Web sites
- Multimedia
- Office equipment, such as copiers and fax machines
- Computers, ancillary equipment, software, firmware and similar procedures, services including support services, and related resources

It does not include any equipment with embedded information technology that does not manage data or information as its principal function, such as HVAC or medical equipment.

### **Managing Section 508**

Management of Section 508 within procurement activities is critical since bid protests are expected to be the primary venue for enforcing Section 508 by competing firms. Although this CIB provides guidance, GSA is working with industry to establish Section 508 compliance testing standards that could be used by the American National Standards Institute (ANSI) or the International Standards Organization (ISO). If successful, this means of determining compliance will significantly simplify the processes shared in this CIB. We have no timetable for when such consensus standards will be established. There will be no federal government listing of compliant products due to "endorsement liability." However, contracting offices that award indefinite quantity contracts (IQCs) must identify to requiring and ordering activities which supplies and services the contractor indicates as compliant and show where full details of compliance can be found.

Section 508 does not apply to the following acquisition conditions:

1. Taking delivery for items ordered before June 25, 2001;
2. Contracts awarded before June 25, 2001, including option year renewals;

3. IQCs (including Federal Supply Schedule, Governmentwide acquisition contracts, Interagency Agreements, etc.), provided that requiring and ordering activities ensure 508 compliance before placing an order or document an exception;
4. Within-scope modifications of contracts awarded before 6/25/01;
5. Exercising unilateral options for contracts awarded before 6/25/01; and
6. Multiyear contracts awarded before 6/25/01.

Exception determinations are not required for award of indefinite quantity contracts (except for requirements that are to be satisfied by initial award), even though ordering activities must ensure section 508 compliance at time of issuance of task or delivery orders. Accordingly, indefinite quantity contracts may include noncompliant items, provided that any task or delivery order issued for non-compliant EIT meets an applicable exception.

Section 508 procurement compliance requirements do apply to

1. EIT acquired through any contracts awarded on or after the effective date, June 25, 2001;
2. Task or delivery orders placed on or after June 25, 2001, against any IDIQ contract irrespective of the award date of the underlying contract;
3. Upgrades of EIT supplies and services for the purpose of adding new features or functionality;
4. New contracts (maintenance, support, functionality, & features changes, etc.) for legacy systems (undue burden justifications may be needed);
5. Procurement ordering against the required sources of supply in FAR Part 8 (UNICOR, NIB/NISH, interagency agreements, etc.); and
6. Overseas acquisitions unless the procuring agency has a legislative exemption to the FAR overseas.

This CIB contains the following attachments:

1. Definitions
2. Steps in the Section 508 Determination and Acquisition Process
3. Section 508 Exception Checklist
4. EIT Accessibility Standards Applicability Checklist
5. EIT Commercial Non-Availability Determination
6. EIT Undue Burden Exception Determination
7. Sample Specification/Requirements Language for Solicitations and Contracts
8. IQC Guidance

Issues will undoubtedly surface as the Federal Government continues its implementation of the Section 508 requirements. Most situations will need to be dealt with on a case-by-case basis. Admittedly, every situation cannot be covered in one policy statement, given the short timeframe for implementation. M/IRM and M/OP/P will forward any additional information, documents, tools, etc. that are developed. Additional information on USAID implementation of Section 508 can be found at <http://www.inside.usaid.gov/M/accessibility/>. Questions and comments on Section 508 are to be addressed to Ms. Brenda Gray, M/IRM/PMA, 202-712-1529 internet address [brgray@usaid.gov](mailto:brgray@usaid.gov). Questions about this CIB may be addressed to Ms. Diane M. Howard, M/OP/P, at 202-712-0206, internet address: [dhoward@usaid.gov](mailto:dhoward@usaid.gov).

## **DEFINITIONS**

“Alternate formats” is defined as formats usable by people with disabilities and may include, but are not limited to, Braille, ASCII text, large print, recorded audio, and electronic formats that comply with this part.

“Alternate methods” is defined as different means of providing information, including product documentation, to people with disabilities. Alternate methods may include, but are not limited to, voice, fax, relay service, TTY, Internet posting, captioning, text-to-speech synthesis, and audio description.

“Assistive technology” is defined as any item, piece of equipment, or system, whether acquired commercially, modified, or customized, that is commonly used to increase, maintain, or improve functional capabilities of individuals with disabilities.

“Equivalent facilitation” is defined as designs or technologies that do not meet the technical aspects of the Access Board’s standards, but offer a substantially equivalent or greater degree of accessibility for people with disabilities than would be achieved with strict adherence to the technical standards.

“Operable controls” is defined as a component of a product that requires physical contact for normal operation. Operable controls include, but are not limited to, mechanically operated controls, input and output trays, card slots, keyboards, and keypads.

“Self Contained, Closed Products” is defined as products that generally have embedded software and are commonly designed in such a fashion that a user cannot easily attach or install assistive technology. These products include, but are not limited to, information kiosks and information transaction machines, copiers, printers, calculators, fax machines, and other similar types of products.

“Telecommunications” is defined as the transmission, between or among points specified by the user, of information of the user’s choosing, without change in the form or content of the information as sent and received.

“TTY” is defined as an abbreviation for teletypewriter. Machinery or equipment that employs interactive text based communications through the transmission of coded signals across the telephone network. TTYs may include, for example, devices known as TDDs (telecommunication display devices or telecommunication devices for deaf persons) or computers with special modems. TTYs are also called text telephones.

“Undue burden” is defined as a significant difficulty or expense. In determining whether an action would result in an undue burden, an agency must consider all agency resources available to the program or component for which the product is being developed, procured, maintained, or used.

**STEPS IN THE SECTION 508 DETERMINATION  
AND ACQUISITION PROCESS**

Steps 1 - 8 are to assist requiring offices in going through the process of identifying Section 508 requirements, processing exceptions, and acquiring Section 508 products when required. The contracting officer is responsible for Step 9, preparing the solicitation or issuing the order. The contracting officer also has primary responsibility for Step 10, evaluating offers and making the award selection, but he or she must coordinate the technical evaluation of offers very carefully with the technical evaluation team based in the requiring office. We have listed the steps in the sequence in which we believe they would normally occur. There may be cases, however, where the sequence will be different, e.g., you may need to conduct market research at an earlier point than is listed here, or you may be able to certify undue burden at an earlier stage because of your existing knowledge of the marketplace.

**Step 1 - Determine if what you are buying is qualifying electronic and information technology (EIT).** First, review the "General Background/Requirements of Section 508" in the CIB. If you are still not sure if your requirement is EIT subject to Section 508 ("qualifying EIT"), please refer to the USAID Section 508 web page at <http://inside.usaid.gov/M/accessibility/> or the GSA Section 508 web page at <http://www.section508.gov>. These sites will provide for further guidance and links to other government organizations to assist in determining if the acquisition is EIT.

If your requirement is *not* qualifying EIT, then you must include the following statement in your purchase request (A&A request, MAARD, or other request to the contracting officer to procure goods or services):

"I have reviewed USAID's policies and guidance pertaining to electronic and information technology (EIT) and have determined that no part of this requirement is EIT subject to the requirements of Section 508 of the Rehabilitation Act of 1973."

The official who approves the A&A request or the MAARD is responsible for the accuracy of this statement.

If any part of your requirement is qualifying EIT, then continue to Step 2.

**Step 2 - If your requirement is qualifying EIT, determine if it falls under one of the EIT exceptions.** The following are the exceptions to the accessibility standards at 36 CFR 1194:

- a) The standards do not apply to any EIT which involves the following:
- Intelligence activities;
  - Cryptographic activities related to national security;
  - Command and control of military forces;
  - Equipment as an integral part of a weapon or weapon system; and
  - Systems critical to the direct fulfillment of military or intelligence missions.
- b) Products to be acquired by a contractor incidental to a contract. Contractor employees in their professional capacity are not members of the public for purposes of Section 508.
- c) Products or components of products that would require a fundamental alteration in their nature.
- d) Products located in spaces frequented only by service personnel for maintenance, repair, or occasional monitoring.
- e) Products at or below the micro-purchase threshold (\$2,500) purchased before January 1, 2003. Buyers should comply with the accessibility standards to the maximum extent practicable. Please note that this exception is for a one-time purchase that totals \$2,500 or less, made on the open market, not under an existing contract. Orders placed against Federal Supply Schedule, GWACs, multi-agency contracts, or indefinite-delivery, indefinite-quantity (IDIQ) contracts are not micro-purchases because they are not made on the open market. Micro-purchases made as part of a larger requirement exceeding \$2,500 are subject to Section 508.
- f) EIT that would impose an undue burden on the agency. Undue burden is defined as a significant difficulty or expense. (More information on this exception is provided later – See Step 6.)

If you determine that your requirement falls under EIT exceptions (a) – (e), then

- Complete and sign the checklist shown in Attachment 3;
- Submit it to the contracting officer along with the purchase request; and,
- Retain a copy as a part of your project file to demonstrate that Section 508 concerns were addressed in acquiring EIT.

For requirements that fall under EIT exceptions (a) – (e) where the purchase is made using the Government-wide purchase card, the requestor must complete the checklist. Maintain the original in the purchase card file. The cardholder must send a copy of the checklist to M/IRM Section 508 Certifications, RRB, Suite 2.12.

Exception (f) (undue burden) requires significantly more documentation and is discussed as a separate step in the process. (See Step 6.)

**Step 3 – If you are purchasing qualifying EIT and none of the exceptions apply, then familiarize yourself with the Access Board standards to determine which of the standards apply.** The standards were published in the *Federal Register* on December

21, 2000. They are codified at 36 CFR 1194. Specific technical standards are provided for

- Software applications and operating systems (§1194.21);
- Web-based intranet and internet information and applications (§1194.22);
- Telecommunications products (§1194.23);
- Video and multimedia products (§1194.24);
- Self contained, closed products (§1194.25); and
- Desktop and portable computers (§1194.26).

Additional functional performance criteria are provided at §1194.31, and product support documentation criteria is provided at §1194.41. The standards may be accessed on the Internet at <http://www.section508.gov> or through USAID's Intranet at <http://inside.usaid.gov/M/accessibility/>.

The **EIT Accessibility Standards Checklist, Attachment 4**, is provided to assist you in determining which standards apply to your requirement. The numbering of the standards is identical to the Access Board's regulation. If you need assistance in identifying the applicable standards, go to <http://inside.usaid.gov/M/accessibility/508supportform.html>, or contact the IRM Help Desk by e-mail at IRM-Helpdesk.

**Step 4 – Conduct market research to determine the availability of compliant products and services.** Market research is defined as “collecting and analyzing information about capabilities within the market to satisfy agency needs” (FAR 2.101). Vendor web sites are a valuable source of information, as well as the Government's Section 508 web site. The Government does not plan to develop a list of compliant products due to “endorsement liability.” If assistance is needed in identifying the applicable standards, go to <http://inside.usaid.gov/M/accessibility/508supportform.html> or contact the IRM Help Desk by email at IRM-Helpdesk.

Market research should reveal if compliant EIT is available on the commercial marketplace. There may be some products on the market that are partially compliant, i.e., the products meet some, but not all, of the applicable standards. Or, market research may indicate that there is no compliant EIT currently available. You may use the Accessibility Standards Checklist in Attachment 4 to document the results of your market research.

Your market research may also provide you with pricing information; however, requiring offices are not to solicit prices from prospective vendors. Accordingly, in addition to determining the commercial availability of the item(s) you plan to purchase, your market research may show that purchase of compliant EIT would impose an undue burden on the agency (e.g., the cost of the compliant EIT is significantly higher than non-compliant EIT). See Step 6 for guidance on undue burden (however, an undue burden determination may be practical only after the contracting officer has received responses to a solicitation).

**Step 5 – Identify which standards, if any, would not apply to your requirements because of non-availability. Prepare the EIT Commercial Non-Availability Determination if you determine that there are standards, which would not apply due to non-availability.** *(Skip this step if you determine that fully compliant EIT is commercially available.)* You may determine that compliant EIT is not available (and purchase non-compliant or partially compliant EIT) when you cannot find a commercial item that both meets all of the applicable Access Board standards and can be furnished in time to meet your delivery requirements. (See FAR 2.101 for a complete definition of commercial item.) If you find products that are partially compliant, you may claim that the product as a whole is non-available because it does not meet all of the accessibility standards. However, you must comply with those accessibility standards that can be met that are available on the commercial marketplace in time to meet your delivery requirements.

If you determine that fully compliant EIT is not available, you must prepare a written justification. Use the format in **Attachment 5, EIT Commercial Non-Availability Determination**, to document the non-availability of compliant EIT. Please note that the head of the Operating Unit or Office Director requiring the EIT must approve this determination. Provide the approved determination to the contracting officer along with the purchase request.

For requirements where the purchase is made using the Government-wide purchase card, the requestor must complete the determination and obtain approval from the Head of the Operating Unit requiring the EIT. Maintain the original in the purchase card file. The cardholder sends a copy to M/IRM Section 508 Certifications, RRB, Suite 2.12.

**Step 6 – If you determine that purchase of compliant EIT would impose an undue burden, prepare the EIT Undue Burden Exception Determination.** An undue burden is defined as one that would cause significant difficulty or expense. In determining whether your requirement would result in an undue burden, you must consider all agency resources available to the program or component for which the product(s) is/are being developed, acquired, maintained, or used. However, note that agencies must still provide alternative means of access that allows individuals with disabilities to use the information and data.

Use the format in **Attachment 6, EIT Undue Burden Exception Determination**, to document the undue burden finding. For each provision of 36 CFR 1194 (see Attachment 4) that you find to be an undue burden, you must explain why, and to what extent, compliance with each provision creates an undue burden. A thorough explanation is required. Relevant attachments are encouraged. For advice and guidance in preparing this document, contact Mr. Jan Miller, Office of General Counsel. Remember that this document must be adequate to survive protests and litigation challenges.

Please note that the Head of the Operating Unit or Office Director requiring the EIT procurement must approve the determination. You must provide this determination to the contracting officer along with the purchase request.

For requirements where the purchase is made using the Government-wide purchase card, the requestor must complete the determination and obtain approval from the Head of the Operating Unit. Maintain the original in the purchase card file. The cardholder sends a copy to M/IRM Section 508 Certifications, RRB, Suite 2.12.

**Step 7 – Prepare the technical specifications based on the results of the market research.** Include in your purchase request for the contracting officer a list of those accessibility standards that apply to your requirement. You can do this by using the checklist in Attachment 4 that you completed when you determined which standards apply (Step 3). You should also have added information on commercial availability and other relevant information as part of your market research (Step 4). Modify the checklist now by editing out those standards that do not apply, so that the checklist now shows only the applicable standards. The contracting officer can further modify the checklist for the solicitation (see below for an example of the modified checklist), to require the vendors to check the appropriate block ("compliant" or "non-compliant") to more easily indicate what features of their product(s) are/are not compliant with the applicable accessibility standard).

Even if the results of market research support a commercial non-availability determination and/or an undue burden determination, the contracting officer must still include all the applicable standards from Step 3 in the solicitation. Therefore, be sure to list all of the applicable standards, even if you have made a commercial non-availability determination. You may discover that someone of whom you were unaware may have a fully compliant product or service available.

The following example describes how to modify the checklist in Attachment 4. Let's say that you need to purchase computers and you have determined that the accessibility standards of 1194.21, Software Applications and Operating Systems, and 1194.26, Desktop and Portable Computers, apply. Here is how the checklist in Attachment 4 can be modified to be included in the solicitation:

1194.21 Software Applications and Operating Systems (36 CFR 1194.21)	Item 1		Item 2	
	Compliant	Not Compliant	Compliant	Not Compliant
(a) When software is designed to run on a system that has a keyboard, product functions shall be executable from a keyboard where the function itself or the result of performing a function can be discerned textually.				
(b) Applications shall not disrupt or disable activated features of other products that are identified as accessibility features, where those features are developed and documented according to industry				

standards. Applications also shall not disrupt or disable activated features of any operating system that are identified as accessibility features where the application programming interface for those accessibility features has been documented by the manufacturer of the operating system and is available to the product developer.				
(c) A well-defined on-screen indication of the current focus shall be provided that moves among interactive interface elements as the input focus changes. The focus shall be programmatically exposed so that assistive technology can track focus and focus change.				
(d) Sufficient information about a user interface element including the identity, operation and state of the element shall be available to assistive technology. When an image represents a program element, the information conveyed by the image must also be available in text.				
(e) When bitmap images are used to identify controls, status indicators or other programmatic elements, the meaning assigned to those images shall be consistent throughout an application's performance.				
(f) Textual information shall be provided through operating system functions for displaying text. The minimum information that shall be made available is text content, text input caret location, and text attributes.				
(g) Applications shall not override user selected contrast and color selections and other individual display attributes.				
(h) When animation is displayed, the information shall be displayable in at least one non-animated presentation mode at the option of the user.				
(i) Color coding shall not be used as the only means of conveying information, indicating an action, prompting a response, or distinguishing a visual element.				
(j) When a product permits a user to adjust color and contrast settings, a variety of color selections capable of producing a range of contrast levels shall be provided.				
(k) Software shall not use flashing or blinking text, objects, or other elements having a flash or blink frequency greater than 2 Hz and lower than 55 Hz.				
(l) When electronic forms are used, the form shall allow people using assistive technology to access the information, field elements, and functionally required for completion and submission of the form, including all directions and cues.				

1194.26 Desktop and Portable Computers	Item 1		Item 2	
	Compliant	Not Compliant	Compliant	Not Compliant
(a) All mechanically operated controls and keys shall comply with §1194.23(k)(1) through (4).				
(b) If a product utilizes touchscreens or touch-operated controls, an input method shall be provided that complies with §1194.23(k)(1) through (4).				
(c) When biometric forms of user identification or control are used, an alternative form of identification or activation, which does not require the user to possess particular biological characteristics, shall also be provided.				
(d) Where provided, at least one of each type of expansion slots, ports and connectors shall comply with publicly available industry standards.				

Two versions of the checklist will be placed in the USAID Forms Macro library available from the Intranet. One version is titled “Section 508 Vendor Checklist” and resembles the checklist above, while the other is titled “ Section 508 Requestor Checklist” and is the checklist in Attachment 4 of this CIB. For the example above, after the requiring office has determined that only those two standards apply, the requestor downloads the Requestor checklist to the C drive and edits it to remove all standards except 1194.21 and 1194.26. After conducting market research, the requestor then enters relevant information from the market research on the checklist and includes it in the procurement request package for the contracting officer (see next step).

**Step 8 – Submit the purchase request to the contracting officer.** Include in the purchase request a description of the product(s) to be acquired, the applicable accessibility standards (using the "Requestor" checklist), any exception determinations, and other information necessary for the contracting officer to begin preparing the solicitation.

**Step 9 (for contracting officers only) – Prepare the solicitation or issue the delivery/task order.** After you, the contracting officer, receive a complete purchase request package, prepare a solicitation or a delivery/task order as usual. Use the information in the "Requestor" checklist to prepare a "Vendor" checklist, which you then insert at the indicated place in the language in Attachment 7. This language belongs in the specifications/requirements section of the solicitation schedule (e.g., Section C under the Uniform Contract Format, section 11. Schedule on the SF-18 Request for Quotations, etc.). The offeror will then complete the checklist as appropriate and include it as part of the offer (bid or proposal). You, the CO, will then include the checklist from the successful offer, either as submitted in the original proposal/bid or as amended through a final revised proposal, in any resulting contract (see Step 10).

**Step 10 (for contracting officers working closely with the technical evaluators from the requiring office) – Evaluate offers received and make an award selection.** This may be one of the most difficult steps in the process. As with any acquisition, the technical evaluation must be customized to suit the conditions of each action. No pre-assigned technical evaluation value can be given to compliance with the EIT accessibility standards. The FAR does not address the manner in which compliance should be technically evaluated.

Keep in mind that even if not fully compliant, we are required to buy the commercial product that provides the greatest degree of compliance while satisfying other functional requirements. Some form of graduated evaluation is necessary. Depending on the planned use of the products, the technical evaluation values of compliance with the various standards may vary. All other requirements of the agency and requiring official are still relevant and evaluated as well. The Section 508 standards constitute an ***additional*** set of requirements to be evaluated with the others.

A “best value” approach to evaluating offers or proposals appears to be the best for accommodating Section 508. This method generally ensures maximum flexibility in consideration of the multiple requirements to be satisfied. One of the reasons for this is that should your acquisition process require an “undue burden” justification, either at the point of initial purchase request development or during offer/proposal evaluation, the requiring official is required by regulation to provide for an ***alternative means*** of access to allow an individual with a disability to use the information or data. This alternative means will usually have associated effort, labor, cost, and time, yet it is not a requirement within the acquisition process. But, it needs to be included in the best value determination.

**DISTRIBUTION TO M/IRM Section 508 Certifications:** After either awarding the contract or task/delivery order, or canceling the procurement action (whichever applies), the contracting officer must complete the information at the bottom of any determinations or justifications provided by the requesting office (see the list below), retain the original in the procurement file, and send a copy to M/IRM Section 508 Certifications, RRB, Suite 2.12.

- Section 508 Exception Checklist (Step 2 and Attachment 3)
- EIT Commercial Non-Availability Determination (Step 5 and Attachment 5)
- EIT Undue Burden Exception Determination (Step 6 and Attachment 6)

**Department of Treasury Evaluation Spreadsheet - optional.** For any contracting officers who may be interested, the Department of the Treasury prepared an Excel spreadsheet, Electronic & Information Technology Accessibility Standards Evaluation. This spreadsheet can be found at the Department of Treasury website at <http://www.ustreas.gov/procurement> (click on "Section 508" in the left column, and then "EIT Accessibility Standards Evaluation". A copy of the spreadsheet is also filed in the OP public directory in p:/shared/poldocs/cibs, under "Section 508 standards eval.xls").

The spreadsheet is similar to the checklists provided in this CIB, but assigns weighted values to each standard to allow for distinctions to be made among offered products and their levels of compliance. The Technical Evaluation Panel would transfer the information provided by the offerors in the EIT Accessibility Standards Compliance Representation to the spreadsheet so that the calculations can be made. The contracting officer may modify any of the evaluative aspects of the spreadsheet to suit his/her specific acquisition process. However, deletion of any of the standards is not recommended due to cross-references and their interdependence.

Use of this spreadsheet approach is not mandatory. Contracting officers may use any evaluation method that they deem appropriate. This is merely one suggestion of what will probably be many different ways of evaluating compliance with Section 508.

**SECTION 508 EXCEPTION CHECKLIST**

*[If an exception applies, complete this checklist, sign it, and provide it to the contracting officer with the A&A request or MAARD; or, complete and sign it and maintain it in the purchase card file.]*

EXCEPTION	Check (▶) if Applicable
The EIT involves intelligence activities.	
The EIT involves cryptographic activities related to national security.	
The EIT involves the command and control of military forces.	
The EIT involves equipment as an integral part of a weapon or weapons system.	
The EIT involves systems critical to the direct fulfillment of military or intelligence missions.	
The EIT is for products to be acquired by a contractor incidental to a contract.	
The EIT is for products or components of products that would require a fundamental alternation in their nature.	
The EIT is for products located in spaces frequented only by service personnel for maintenance, repair, or occasional monitoring.	
The EIT is a micro-purchase (\$2,500 or less) made on the open market.	
Purchase of EIT that meets the applicable accessibility standards would impose an undue burden on the agency. <i>(Attach the EIT Undue Burden Exception Determination and Finding to this checklist.)</i>	

Signature of Requesting Official \_\_\_\_\_ Date \_\_\_\_\_  
 Printed Name \_\_\_\_\_ Title \_\_\_\_\_  
 Operating Unit/Office Designation (Requiring Office) \_\_\_\_\_  
 A&A Request ID number/MAARD number \_\_\_\_\_ *(I suggest we add this here, too, since this checklist could get separated from the A&A request/MAARD)*

<p>The Contracting Officer to add the following information after award:</p> <p>Contracting Officer (name and office designation): _____</p> <p>Contract Award Number: _____</p>
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**EIT ACCESSIBILITY STANDARDS CHECKLIST**

*[Use this checklist to assist in determining which standards apply as well as which standards are commercially available. This checklist can also be modified for inclusion in the solicitation so that offerors may check off which aspects of their products are or are not compliant.]*

Standards Group/Standard	Applicable? (Check ► )	Is Commercially Available	Is Not Commercially Available
<b>TECHNICAL SPECIFICATIONS</b>			
<b>1194.21 Software Applications and Operating Systems (36 CFR 1194.21)</b>			
(a) When software is designed to run on a system that has a keyboard, product functions shall be executable from a keyboard where the function itself or the result of performing a function can be discerned textually.			
(b) Applications shall not disrupt or disable activated features of other products that are identified as accessibility features, where those features are developed and documented according to industry standards. Applications also shall not disrupt or disable activated features of any operating system that are identified as accessibility features where the application programming interface for those accessibility features has been documented by the manufacturer of the operating system and is available to the product developer.			
(c) A well-defined on-screen indication of the current focus shall be provided that moves among interactive interface elements as the input focus changes. The focus shall be programmatically exposed so that assistive technology can track focus and focus change.			
(d) Sufficient information about a user interface element including the identity, operation and state of the element shall be available to assistive technology. When an image represents a program element, the information conveyed by the image must also be available in text.			
(e) When bitmap images are used to identify controls, status indicators or other programmatic elements, the meaning assigned to those images shall be consistent throughout an application's performance.			
(f) Textual information shall be provided through operating system functions for displaying text. The minimum information that shall be made available is text content, text input caret location, and text attributes.			
(g) Applications shall not override user selected contrast and color selections and other individual display attributes.			
(h) When animation is displayed, the information shall be displayable in at least one non-animated presentation mode at the option of the user.			

Standards Group/Standard	Applicable? (Check ► )	Is Commercially Available	Is Not Commercially Available
(i) Color coding shall not be used as the only means of conveying information, indicating an action, prompting a response, or distinguishing a visual element.			
(j) When a product permits a user to adjust color and contrast settings, a variety of color selections capable of producing a range of contrast levels shall be provided.			
(k) Software shall not use flashing or blinking text, objects, or other elements having a flash or blink frequency greater than 2 Hz and lower than 55 Hz.			
(l) When electronic forms are used, the form shall allow people using assistive technology to access the information, field elements, and functionally required for completion and submission of the form, including all directions and cues.			
<b>1194.22 Web-Based Intranet and Internet Information and Applications (See Note)</b>			
(a) A text equivalent for every non-text element shall be provided (e.g., via “alt”, “longdesc”, or in element content).			
(b) Equivalent alternatives for any multimedia presentation shall be synchronized with the presentation.			
(c) Web pages shall be designed so that all information conveyed with color is also available without color, for example from context or markup.			
(d) Documents shall be organized so they are readable without requiring an associated style sheet.			
(e) Redundant text links shall be provided for each active region of a server-side image map.			
(f) Client-side image maps shall be provided instead of server-side image maps except where the regions cannot be defined with an available geometric shape.			
(g) Row and column headers shall be identified for data tables.			
(h) Markup shall be used to associate data cells and header cells for data tables that have two or more logical levels of row or column headers.			
(i) Frames shall be titled with text that facilitates frame identification and navigation.			
(j) Pages shall be designed to avoid causing the screen to flicker with a frequency greater than 2 Hz and lower than 55 Hz.			
(k) A text-only page, with equivalent information or functionality, shall be provided to make a web site comply with the provisions of this part, when compliance cannot be accomplished in any other way. The content of the text-only page shall be updated whenever the primary page changes.			
(l) When pages utilize scripting languages to display content, or to create interface elements, the information provided by the script shall be identified with functional text that can be read by assistive technology.			

Standards Group/Standard	Applicable? (Check ► )	Is Commercially Available	Is Not Commercially Available
(m) When a web page requires that an applet, plug-in or other application be present on the client system to interpret page content, the page must provide a link to a plug-in or applet that complies with §1194.21(a) through (l).			
(n) When electronic forms are designed to be completed on-line, the form shall allow people using assistive technology to access the information, field elements, and functionality required for completion and submission of the form, including all directions and cues.			
(o) A method shall be provided that permits users to skip repetitive navigation links.			
(p) When a timed response is required, the user shall be alerted and given sufficient time to indicate more time is required.			
<b>1194.23 Telecommunications Products</b>			
(a) Telecommunications products or systems which provide a function allowing voice communication and which do not themselves provide a TTY functionality shall provide a standard non-acoustic connection point for TTYs. Microphones shall be capable of being turned on and off to allow the user to intermix speech with TTY use.			
(b) Telecommunication products which include voice communication functionality shall support all commonly used cross-manufacturer non-proprietary standard TTY signal protocols.			
(c) Voice mail, auto-attendant, and interactive voice response telecommunications systems shall be usable by TTY users with their TTYs.			
(d) Voice mail, messaging, auto-attendant, and interactive voice response telecommunications systems that require a response from a user within a time interval, shall give an alert when the time interval is about to run out, and shall provide sufficient time for the user to indicate more time is required.			
(e) Where provided, caller identification and similar telecommunications functions shall also be available for users of TTYs, and for users who cannot see displays.			
(f) For transmitted voice signals, telecommunications products shall provide a gain adjustable up to a minimum of 20 dB. For incremental volume control, at least one intermediate step of 12 dB of gain shall be provided.			
(g) If the telecommunications product allows a user to adjust the receive volume, a function shall be provided to automatically reset the volume to the default level after every use.			
(h) Where a telecommunications product delivers output by an audio transducer which is normally held up to the ear, a means for effective magnetic wireless coupling to hearing technologies shall be provided.			
(i) Interference to hearing technologies (including hearing aids, cochlear implants, and assistive listening devices) shall be reduced to the lowest possible level that allows a user of hearing technologies to utilize the telecommunications product.			

Standards Group/Standard	Applicable? (Check ► )	Is Commercially Available	Is Not Commercially Available
(j) Products that transmit or conduct information or communication, shall pass through cross-manufacturer, non-proprietary, industry-standard codes, translation protocols, formats or other information necessary to provide the information or communication in a usable format. Technologies which use encoding, signal compression, format transformation, or similar techniques shall not remove information needed for access or shall restore it upon delivery.			
(k) Products which have mechanically operated controls or keys, shall comply with the following: (1) Controls and keys shall be tactilely discernible without activating the controls or keys. (2) Controls and keys shall be operable with one hand and shall not require tight grasping, pinching, or twisting of the wrist. The force required to activate controls and keys shall be 5 lbs. (22.2 N) maximum. (3) If key repeat is supported, the delay before repeat shall be adjustable to at least 2 seconds. Key repeat rate shall be adjustable to 2 seconds per character. (4) The status of all locking or toggle controls or keys shall be visually discernible, and discernible either through touch or sound.			
<b>1194.24 Video and Multimedia Products</b>			
(a) All analog television displays 13 inches and larger, and computer equipment that includes analog television receiver or display circuitry, shall be equipped with caption decoder circuitry which appropriately receives, decodes, and displays closed captions from broadcast, cable videotape, and DVD signals. As soon as practicable, but not later than July 1, 2002, widescreen digital television (DTV) displays measuring at least 7.8 inches vertically, DTV sets with conventional displays measuring at least 13 inches vertically, and stand-alone DTV tuners, whether or not they are marketed with display screens, and computer equipment that includes DTV receiver or display circuitry, shall be equipped with caption decoder circuitry which appropriately receives, decodes, and displays closed captions from broadcast, cable, videotape, and DVD signals.			
(b) Television tuners, including tuner cards for use in computers, shall be equipped with secondary audio program playback circuitry.			
(c) All training and informational video and multimedia productions which support the agency's mission, regardless of format, that contain speech or other audio information necessary for the comprehension of the content, shall be open or closed captioned.			
(d) All training and informational video and multimedia productions which support the agency's mission, regardless of format, that contain visual information necessary for the comprehension of the content, shall be audio described.			
(e) Display or presentation of alternate text presentation or audio descriptions shall be user-selectable unless permanent.			

Standards Group/Standard	Applicable? (Check ► )	Is Commercially Available	Is Not Commercially Available
<b>1194.25 Self Contained, Closed Products</b>			
(a) Self contained products shall be usable by people with disabilities without requiring an end-user to attach assistive technology to the product. Personal headsets for private listening are not assistive technology.			
(b) When a timed response is required, the user shall be alerted and given sufficient time to indicate more time is required.			
(c) Where a product utilizes touchscreens or contact-sensitive controls, an input method shall be provided that complies with §1194.23 (k)(1) through (4).			
(d) When biometric forms of user identification or control are used, an alternative form of identification or activation, which does not require the user to possess particular biological characteristics, shall also be provided.			
(e) When products provide auditory output, the audio signal shall be provided at a standard signal level through an industry standard connector that will allow for private listening. The product must provide the ability to interrupt, pause, and restart the audio at any time.			
(f) When products deliver voice output in a public area, incremental volume control shall be provided with output amplification up to a level of at least 65 dB. Where the ambient noise level of the environment is above 45 dB, a volume gain of at least 20 dB above the ambient level shall be user selectable. A function shall be provided to automatically reset the volume to the default level after every use.			
(g) Color coding shall not be used as the only means of conveying information, indicating an action, prompting a response, or distinguishing a visual element.			
(h) When a product permits a user to adjust color and contrast settings, a range of color selections capable of producing a variety of contrast levels shall be provided.			
(i) Products shall be designed to avoid causing the screen to flicker with a frequency greater than 2 Hz and lower than 55 Hz.			
(j) Products which are freestanding, non-portable, and intended to be used in one location and which have operable controls shall comply with the following: (1) The position of any operable control shall be determined with respect to a vertical plane, which is 48 inches in length, centered on the operable control, and at the maximum protrusion of the product within the 48 inch length (see figure 1 of this part). (2) Where any operable control is 10 inches or less behind the reference plane, the height shall be 54 inches maximum and 15 inches minimum above the floor. (3) Where any operable control is more than 10 inches and not more than 24 inches behind the reference plane, the height shall be 46 inches maximum and 15 inches minimum above the floor. (4) Operable controls shall not be more than 24 inches behind the reference plane (see Figure 2 of this part.)			

Standards Group/Standard	Applicable? (Check ► )	Is Commercially Available	Is Not Commercially Available
<b>1194.26 Desktop and Portable Computers</b>			
(a) All mechanically operated controls and keys shall comply with §1194.23(k)(1) through (4).			
(b) If a product utilizes touchscreens or touch-operated controls, an input method shall be provided that complies with §1194.23(k)(1) through (4).			
(c) When biometric forms of user identification or control are used, an alternative form of identification or activation, which does not require the user to possess particular biological characteristics, shall also be provided.			
(d) Where provided, at least one of each type of expansion slots, ports and connectors shall comply with publicly available industry standards.			
<b>FUNCTIONAL PERFORMANCE CRITERIA</b>			
<b>1194.31 Functional Performance Criteria</b>			
(a) At least one mode of operation and information retrieval that does not require user vision shall be provided, or support for assistive technology used by people who are blind or visually impaired shall be provided.			
(b) At least one mode of operation and information retrieval that does not require visual acuity greater than 20/70 shall be provided in audio and enlarged print output working together or independently, or support for assistive technology used by people who are visually impaired shall be provided.			
(c) At least one mode of operation and information retrieval that does not require user hearing shall be provided., or support for assistive technology used by people who are deaf or hard of hearing shall be provided.			
(d) Where audio information is important for the use of a product, at least one mode of operation and information retrieval shall be provided in an enhanced auditory fashion, or support for assistive hearing devices shall be provided.			
(e) At least one mode of operation and information retrieval that does not require user speech shall be provided, or support for assistive technology used by people with disabilities shall be provided.			
(f) At least one mode of operation and information retrieval that does not require fine motor control or simultaneous actions and that is operable with limited reach and strength shall be provided.			
<b>INFORMATION, DOCUMENTATION, AND SUPPORT</b>			
<b>1194.41 Information, Documentation, and Support</b>			
(a) Product support documentation provided to end-users shall be made available in alternate formats upon request, at no additional charge.			
(b) End-users shall have access to a description of the accessibility and compatibility features of products in alternate formats or alternate methods upon request, at no additional charge.			

Standards Group/Standard	Applicable? (Check ► )	Is Commercially Available	Is Not Commercially Available
(c) Support services for products shall accommodate the communication needs of end-users with disabilities.			

Note: The Board interprets paragraphs (a) through (k) of §1194.22 as consistent with the following priority 1 Checkpoints of the Web Content Accessibility Guidelines 1.0 (WCAG 1.0) (May 5, 1999) published by the Web Accessibility Initiative of the World Wide Web Consortium:

Section 1194.22 Paragraph	WCAG 1.0 Checkpoint
(a)	1.1
(b)	1.4
(c)	2.1
(d)	6.1
(e)	1.2
(f)	9.1
(g)	5.1
(h)	5.2
(i)	12.1
(j)	7.1
(k)	11.4

**EIT COMMERCIAL NON-AVAILABILITY DETERMINATION.**

1. Discuss your findings regarding the non-availability of compliant commercial items. Include which applicable technical standards of Section 508 will not be met by each product to be acquired.
2. Describe the methodology used to determine the non-availability of compliant commercial items.
3. List the sources used to investigate the availability of compliant commercial items, e.g., other Federal agencies; contacts with industry trade associations; accessible product organizations such as IRS Information Resources Accessibility Program (IRAP) and GSA's Center for IT Accommodation; Federal Supply Schedules; IRS' Disabled Employees Support Acquisitions Contract (DESAC II) contract; Internet market research; industry consultation; Request for Information published in FedBizOpps; and contact with USAID's Section 508 website.

Note: Even if not fully compliant, you are required to acquire the commercial item that provides the greatest degree of compliance while satisfying other functional requirements.

**Determination**

I have determined that the product(s) I require is/are not currently available in a compliant version in the commercial marketplace, nor is/are they expected to become available in a compliant version in time to satisfy my delivery requirements.

Signature of Requesting Official \_\_\_\_\_ Date \_\_\_\_\_

Printed Name \_\_\_\_\_ Title \_\_\_\_\_

Operating Unit/Office Designation \_\_\_\_\_

A&A Request ID number/MAARD number \_\_\_\_\_

Approved by: \_\_\_\_\_

Head of the Operating Unit/Office Director

Date

.....  
The Contracting Officer to add the following information after award:

Contracting Officer (name and office designation): \_\_\_\_\_

Contract Award Number: \_\_\_\_\_

Product/Vendor: \_\_\_\_\_

**EIT UNDUE BURDEN EXCEPTION DETERMINATION**

1. Describe the products or services required to meet the Agency's needs.
2. State the anticipated dollar value of the acquisition, including any options.
3. List the applicable Section 508 accessibility standards (see Attachment 4) that are unmet.
4. Describe the market research performed to locate commercial items that meet the applicable accessibility standards.
5. Describe the undue burden (i.e., the significant difficulty or expense the Agency would incur in order to comply with a particular accessibility standard). If the monetary expense is a basis for the undue burden, explain the costs and how they were estimated. Describe the insufficient agency resources available to the office or program for which the product(s) or service(s) is/are being acquired.
6. Describe the alternative means of access that will be provided that will allow individuals with disabilities to use the information or data. Include effort, labor, costs, and time required to implement the alternative means.

**Determination**

I have determined that acquisition of the applicable EIT product(s) or service(s) required by my organization that are subject to Section 508 of the Rehabilitation Act of 1973, as amended, imposes an undue burden.

Signature of Requesting Official \_\_\_\_\_ Date \_\_\_\_\_  
Printed Name \_\_\_\_\_ Title \_\_\_\_\_  
Operating Unit/Office Designation \_\_\_\_\_  
A&A Request ID number/MAARD number \_\_\_\_\_

**Approved by:**

\_\_\_\_\_  
Signature of Head of the Operating Unit/Office Director Date

The Contracting Officer to add the following information after award:

Contracting Officer (name and office designation) \_\_\_\_\_  
Contract/Award # \_\_\_\_\_  
Product/Vendor \_\_\_\_\_

**SAMPLE SPECIFICATION/REQUIREMENTS LANGUAGE FOR  
SOLICITATIONS AND CONTRACTS**

*Instructions to contracting officers/negotiators:* Include the following in the SCHEDULE of the solicitation and the resulting award (contract, delivery or task order, purchase order, etc.), in the appropriate section of the solicitation and resulting award that contains the EIT requirements for the procurement. The appropriate section may be (but is not limited to) the Uniform Contract Format Section C Description/specifications/statement of work or Section 11. Schedule of the SF-18 Request for Quotation.

For paragraph (a), use Alternative I for the solicitation and Alternative II for the resulting award.

*(insert appropriate section numbering)* Electronic and Information Technology (EIT)  
Accessibility Standards Compliance

Alternative I

(a) USAID has determined that the following Section 508 accessibility standards, as codified at 36 CFR §1194 and shown in the chart below, apply to this solicitation. When responding to this solicitation, the offeror must check the applicable box for each item listed below to indicate which product(s)/service(s) are compliant with each listed standard. By submitting an offer containing this chart, the offeror is also claiming that all EIT products and services represented in the chart that are less than fully compliant are offered pursuant to extensive market research, which ensures that they are the most compliant products and services available to satisfy this solicitation's requirements. The item(s) are identified as follows:

*(contracting officer inserts the checklist from Step 7 of Attachment 2 of this CIB)*

Alternative II

(a) The following chart specifies the Electronic and Information Technology (EIT) to be furnished under this contract and indicates which product or service must comply with Section 508 Accessibility Standards (codified at 36 CFR 1194).

*(contracting officer inserts the checklist from the successful offer)*

(b) If the Contracting Officer determines any furnished product or service is not in compliance with the contract, the Contracting Officer must promptly inform the contractor in writing. The contractor must, without charge to the Government, repair or replace the non-compliant products or services within the period of time specified by the Contracting Officer. If the repair or replacement is not completed within the time specified, the Contracting Officer may

- (1) Cancel the contract, delivery or task order, purchase order, or line item without termination liabilities; or

(2) In the case of custom EIT being developed for use under this contract, have any necessary changes made or repairs performed by Government employees or by another contractor and the contractor must reimburse the Government for any expenses incurred thereby.

(c) For every EIT product or service accepted under this contract by the Government that does not comply with 36 CFR 1194, the contractor must, at the discretion of the Contracting Officer, make every effort to replace or upgrade it with a compliant equivalent product or service, if commercially available and cost neutral, on either the planned refresh cycle of the product or service, or on the contract renewal date, whichever occurs first.

## **INDEFINITE QUANTITY CONTRACT (IQC) GUIDANCE**

The Accessibility of Electronic and Information Technology language in Attachment 7 need not be used for indefinite quantity contracts (IQCs) since both compliant and non-compliant products may be offered by such contracts, regardless of award date. However, contracting offices that award indefinite-quantity contracts must indicate to ordering offices which supplies and services the contractor indicates as compliant, and show where full details of compliance can be found (e.g., vendor's or other exact web page location).

Contracting officers may wish to evaluate for initial award the extent of Section 508 compliant products (supplies and services) being offered versus the non-compliant products in order to encourage offerors to emphasize compliant goods and services. This can be done in a variety of ways, including provision by the offeror of a listing of compliant products, since he is required to provide one for ordering officials anyway per the FAR. The contracting officer could evaluate the percentage of compliant products relative to the total variety offered.

The language in this Attachment 8 may be included in Section C of an IQC solicitation to satisfy new FAR section 39.203 (b) (2) and provide other assurances. If the contracting officer is also seeking the list for proposal evaluation purposes, he/she will need to include something similar in solicitation Section L as well.

For existing IQCs which are still in effect and under which ordering will take place after June 25, 2001, contracting officers should modify the contracts to include this clause.

### Compliance with Section 508 of the Rehabilitation Act of 1973, as Amended

(a) The Contractor must provide a comprehensive list of all offered specific electronic and information technology (EIT) products (supplies and services) that fully comply with Section 508 of the Rehabilitation Act of 1973, per the 1998 Amendments, and the Architectural and Transportation Barriers Compliance Board's Electronic and Information Technology Accessibility Standards at 36 CFR Part 1194. The Contractor must clearly indicate where this list with full details of compliance can be found (e.g., vendors or other exact web page location). The contractor must ensure that the list is easily accessible by typical users beginning five calendar days after award. The contractor must maintain this detailed listing of compliant products for the full contract term, including all forms of extensions, and must ensure that it is current within three calendar days of changes to its product line.

(b) For every EIT product accepted under this contract by the Government that does not comply with 36 CFR Part 1194, the contractor shall, at the discretion of the Government, make every effort to replace or upgrade it with a compliant equivalent product or service, if commercially available and cost neutral, on either the planned refresh cycle of the product or service, or on the contract renewal date, whichever shall occur first.